

श्रसाधारण EXTRAORDINARY

भाग 🔟 — खण्ड 2 PART II—Section 2

प्राधिकार से प्रकाशिल PUBLISHED BY AUTHORITY

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नई विल्ली, बुधवार, **मई** 31, 1972/ज्येष्ठ 10, 1894 NEW DELHI, WEDNESDAY, MAY 31, 1972/JYAISTHA 10, 1894

हैंस भाग में भिन्त पृष्ट पंथावी जाती है जिस ने कि यह ग्रलग संकलत के रूप में रखाजा सके। Separate paging is given to this Part in order that it may be filed as a separate compilation.

LOK SABHA

The following Bills were introduced in Lok Sabha on the 31st May, 1972: ---

BILL No. 59 of 1972

A Bill to provide for the speedy trial of certain offences in certain areas and for matters connected therewith

BE it enacted by Parliament in the Twenty-third Year of the Republic of India as follows:--

1. (1) This Act may be called the Disturbed Areas (Special Courts) Act, 1972.

Short title. extent and com_

- (2) It extends to the whole of India except the State of Jammu and mence-Kashmir,
- (3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint and different dates may be appointed for different States or for different parts thereof.

5 of 1898.

2 In this Act, unless the context otherwise requires,—

Defini_ tions.

- (a) "Code" means the Code of Criminal Procedure, 1898;
- (b) "disturbed area" means an area declared as a disturbed area under section 3;
- (c) "scheduled offence" means an offence specified in the Schedule:
- (d) "Special Court" means a Special Court constituted under rection 4;
- (e) words and expressions used but not defined in this Act, and defined in the Code shall have the meanings respectively assigned to them in the Code.

Declaration of an area as disturbed area.

- 3. (1) Where a State Government is satisfied that-
 - (i) there was, or
 - (ii) there is,

in any area within a State extensive disturbance of the public peace and tranquillity, by reason of differences or disputes between members of different religious, racial, language or regional groups or castes or communities, it may, by notification in the Official Gazette, declare that such area shall be deemed to be a disturbed area for the purposes of this Act.

(2) A notification issued under sub-section (1) in respect of any area shall specify the period (including any period prior to the issue of the notification) during which the area shall be deemed to be a disturbed area:

Provided that the period or, as the case may be, so much of the period specified in such notification as is subsequent to the publication of the notification shall not, in the first instance, exceed three months but may, by a like notification, be extended from time to time by any period not exceeding three months at any one time if in the opinion of the State Government there continues to be in such area such disturbance of public peace and tranquillity as is referred to in sub-section (1).

Constitution of Special Courts.

- 4. (1) The State Government may, for the purpose of providing speedy trial of scheduled offences committed in disturbed areas, by notification in the Official Gazette, constitute as many Special Courts as may be necessary in or in relation to such disturbed area or areas as may be specified in the notification.
- (2) A Special Court shall consist of a single judge who shall be appointed by the State Government in consultation with the High Court.
- (3) A person shall not be qualified for appointment as a judge of a Special Court unless—
 - (a) he is, or has been, or is qualified for appointment as, a judge of a High Court, or
 - (b) he has, for a period of not less than one year, been a Sessions Judge or an Additional Sessions Judge.
- (4) Every judge appointed to a Special Court shall have all the powers conferred on a Special Court under this Act.

Jurisdiction of Special Courts.

- 5. (1) Notwithstanding anything contained in the Code or any other law, a scheduled offence committed in any disturbed area at any time during the period specified in the notification issued under section 3 in 1-spect of such area or during that period as extended under the proviso to sub-section (2) of that section shall be triable, whether during or after such period, only by the Special Court constituted in or in relation to the disturbed area in which the offence has been committed.
- (2) When trying any scheduled offence, a Special Court may also try any offence other than the scheduled offence with which the accused may, under the Code, be charged at the same trial if the offence is connected with the scheduled offence.

6. (1) A Special Court may take cognizance of any scheduled offence Procedwithout the accused being committed to it for trial.

ure and powers

- (2) Where a scheduled offence is punishable with imprisonment for a of Special term exceeding three years, a Special Court may try such offence accord- Courts. ing to the procedure prescribed in the Code for trial of warrant cases by magistrates and may impose any sentence authorised by law for the punishment of such offence.
- (3) Where a scheduled offence is punishable with imprisonment for a term not exceeding three years or with fine or with both, a Special Court may, notwithstanding anything contained in section 260 or section 262 of the Code, try the offence in a summary way in accordance with the procedure prescribed in the Code for summons cases and the provisions of sections 263 to 265 of the Code shall, so far as may be, apply to such trial:

Provided that in the case of any conviction in a summary trial under this section, it shall be lawful for a Special Court to pass a sentence of imprisonment for a term not exceeding two years-

- (4) A Special Court may, with a view to obtaining the evidence of any person suspected to have been directly or indirectly concerned in, or privy to, an offence, tender a pardon to such person on condition of his making a full and true disclosure of the whole circumstances within his knowledge relating to the offence and to every other person concerned whether as principal or abettor in the commission thereof and any pardon so tendered shall, for the purposes of sections 339 and 339A of the Code, be deemed to have been tendered under section 338 thereof.
- 7. Notwithstanding anything contained in sub-section (1) of section Power to 5, where, after taking cognizance of any scheduled offence, a Special transfer Court is of opinion that the offence is one which does not form part or cases to arise out of, or that it is unconnected with any such disturbance as is regularreferred to in section 3, it may transfer the case for trial to any court Courts. having jurisdiction under the Code.

8. The High Court may exercise, so far as they may be applicable, all Appeal the powers conferred by Chapters XXXI and XXXII of the Code on a and High Court, as if a Special Court were a Court of Session trying cases revision. without a jury within the local limits of the jurisdiction of the High Court.

9. (1) The provisions of this Act shall have effect notwithstanding Overrid. anything contained in the Code or any other law, but save as expressly ing effect provided in this Act, the provisions of the Code shall, in so far as of Act. they are not inconsistent with the provisions of this Act, apply to the proceedings before a Special Court; and for the purposes of the said provisions of the Code, the Special Court shall be deemed to be a Court of Session trying cases without a jury and the person conducting a prosecution before a Special Court shall be deemed to be a public prosecutor.

(2) In particular and without prejudice to the generality of the provisions contained in sub-section (1), the provisions of sections 350 and 549 of the Code shall, so far as may be, apply to the proceedings before a Special Court, and for the purposes of the said provisions a Special Court shall be deemed to be a magistrate.

Saving.

- 10. (1) Nothing in this Act shall affect the jurisdiction exercisable by or the procedure applicable to, any court or other authority under any law relating to the naval, military or air forces or any other armed forces of the Union.
- (2) For the removal of doubts, it is hereby declared that for the purposes of any such law as is referred to in sub-section (1), a Special Court shall be deemed to be a court of ordinary criminal justice.

THE SCHEDULE

[See section 2(c)]

1. Offences under the following provisions of the Indian Penal Code: - 45 of 1860.

Section 120B;

Sections 143 to 145, 147, 148, 151 to 155, 157, 158 and 160;

Sections 182, 183, 186 to 190;

Sections 193 to 195, 199, 201 to 203, 211 to 214, 216, 216A and 225;

Sections 295 to 298;

Sections 302, 303, 304, 307, 308, 323 to 335, 341 to 348, 352 to 368, 363 to 369 and 376;

Sections 379, 380, 382, 384 to 387, 392 to 399, 402, 411, 412, 426, 427, 431, 435, 436, 440, 447 to 462;

Sections 504 to 506 and 509.

- Offences under the following provisions of the Arms Act, 1959:
 — 54 of 1959.
 Sections 25 to 30.
- 3. Offences under the following provisions of the Indian Explosives 4 of 1884. Act. 1884:—

Sections 6(3) and 8(2)

STATEMENT OF OBJECTS AND REASONS

There are considerable delays in the disposal of criminal cases arising out of communal disturbances. The National Integration Council had, in 1968, considered the problem and had recommended that Special Courts with summary powers to deal with the offences connected with communal disturbances should be constituted. Under the existing law it is only a small number of minor offences which can be tried in a summary way in accordance with the procedure laid down in Chapter XXII of the Code of Criminal Procedure. It is necessary to provide that cases relating to specified offences, arising out of differences between different religious, racial, language or regional groups or castes or communities, may be triable (a) by Special Courts, and (b) according to a quick and effective procedure.

2. The Bill seeks to achieve the above object.

NEW DELHI; The 24th May, 1972. R. N. MIRDHA.

FINANCIAL MEMORANDUM

Clause 4 of the Bill provides for the constitution of as many Special Courts as may be necessary for the speedy trial of scheduled offences committed in disturbed areas. A Special Court shall consist of a single judge who is, or has been, or is qualified for appointment as a judge of a High Court or who has been for over a year a Sessions Judge or an Additional Sessions Judge. The expenditure in respect of Special Courts constituted for Union territories will be from and out of the Consolidated Fund of India. This expenditure will be of a recurring nature only and is not likely to exceed Rs. 26,000 annually.

The provisions of the Bill do not involve any expenditure of a non-recurring nature from the Consolidated Fund of India.

BILL No. 62 of 1972

A Bill further to amend the Indian Penal Code, the Code of Criminal Procedure, 1898 and the Unlawful Activities (Prevention) Act, 1967.

BE it enacted by Parliament in the Twenty-third Year of the Republic of India as follows: --

1. This Act may be called the Criminal Law (Amendment) Act, 1972. Short

title.

Amend. ment of

- 2. In the Indian Penal Code,—
 - (a) in sub-section (1) of section 153A,—

- Act 45 of 1860.
- (i) in clause (b), the word "or" shall be inserted at the end;
- (ii) after clause (b), the following clause shall be inserted, namely:—
 - "(c) organizes any exercise, movement, drill or other similar activity intending that the participants in such activity shall use or be trained to use criminal force or violence or knowing it to be likely that the participants in such activity will use or be trained to use criminal force or violence, or participates in such activity intending to use or be trained to use criminal force or violence or knowing it to be likely that the participants in such activity will use or be trained to use criminal force or violence, against any religious, racial, language or regional group or caste or community and such

activity for any reason whatsoever causes or is likely to cause fear or alarm or a feeling of insecurity amongst members of such religious, racial, language or regional group or caste or community,";

Imputations, assertions prejudicial to national integration.

- (b) after section 153A, the following section shall be inserted, namely:—
 - "153B. (1) Whoever, by words either spoken or written or by signs or by visible representations or otherwise,—
 - (a) makes or publishes any imputation that any class of persons cannot, by reason of their being members of any religious, racial, language or regional group or caste or community, bear true faith and allegiance to the Constitution of India as by law established or uphold the sovereignty and integrity of India, or
 - (b) asserts, counsels, advises, propagates or publishes that any class of persons shall, by reason of their being members of any religious, racial, language or regional group or caste or community, be denied or deprived of their rights as citizens of India, or
 - (c) makes or publishes any assertion, counsel, plea or appeal concerning the obligation of any class of persons, by reason of their being members of any religious, racial, language or regional group or caste or community, and such assertion, counsel, plea or appeal causes or is likely to cause disharmony or feelings of enmity or hatred or ill-will between such members and other persons,

shall be punished with imprisonment which may extend to three years, or with fine, or with both.

(2) Whoever commits an offence specified in sub-section (1) in any place of worship or in any assembly engaged in the performance of religious worship or religious ceremonies, shall be punished with imprisonment which may extend to five years and shall also be liable to fine."

Amend_ment of Act 5 of 1898.

- 3. In the Code of Criminal Procedure, 1898,-
 - (a) in sub-section (1) of section 99A,—
 - (i) after the words "seditious or obscene matter", the words "or any matter which is prejudicial to national integration" shall be inserted;
 - (ii) after the words, figures and letter "or section 153A", the words, figures and letter "or section 153B" shall be inserted;
 - (b) in sub-section (1) of section 106, after the word, figures and letter "section 153A", the word, figures and letter, "section 153B" shall be inserted:
 - (c) in sub-clause (b) of clause (i) of section 108, after the word, figures and letter "section 153A", the words, figures and letter "or section 153B" shall be inserted;

- (d) in section 196, after the words, figures and letter "or section 153A,", the words, figures and letter "or section 153B," shall be in-
- (e) in Schedule II, after the entries relating to section 153A, the following entries shall be inserted, namely:-

ĭ	2	3	4	5	6	7	8
"1<3B(1)	Imputations, assertions prejudicial to national integration.	May 4 arrest without warrant.	Warrant	Not bail- able.	Not com- pound- able.	Imprison- ment of either descrip- tion for three years or fine or both.	Presi- dency Magis- trate or Magis- trate of the first class.
153B(2)	Imputations, assertions prejudicial to national integration in lace of public worship, etc.	Ditto	Ditto	Ditto	Ditto	Impri- son- son- ment of either descrip- tion for five years and fine.	Ditto."

4. In the Unlawful Activities (Prevention) Act, 1967, for clause (g) Amendof section 2, the following clause shall be substituted, namely:—

ment of Act 37 of 1967.

- (g) "unlawful association" means any association-
- (i) which has for its object any unlawful activity, or which encourages or aids persons to undertake any unlawful activity, or of which the members undertake such activity; or
- (ii) which has for its object any activity which is punishable under section 153A or section 153B of the Indian Penal Code, or which encourages or aids persons to undertake any such activity, or of which the members undertake any such activity:

Provided that nothing contained in sub-clause (ii) shall apply to the State of Jammu and Kashmir.'.

45 of 1860.

STATEMENT OF OBJECTS AND REASONS

Drills, exercises and other similar activities organised by communal and other divisive forces cause apprehension, fear or a sense of insecurity amongst members of the affected communities and also affect prejudicially the maintenance of public tranquillity. Propaganda imputing that the members of any particular community cannot be patriotic or asserting that members of any particular community should be denied or deprived of their rights as citizens of India and propaganda regarding tht obligations of any class of persons, by reason of their being members of any religious, racial, language or regional group or caste or community, would be prejudicial to the maintenance of communal harmony and to the integrity of the nation. It is, therefore, considered necessary to make specific provisions in the Indian Penal Code to deal with persons engaged in such activities.

- 2. Though action can be taken under the existing law against individuals for activities promoting enmity or prejudicial to the maintenance of harmony between different groups on grounds of religion, race, place of birth, residence, language, etc., there is no provision for dealing effectively with an association which has for its object such objectionable activities. In order to curb the objectionable activities of such associations, which pose a serious challenge to the integrity of the nation and the maintenance of harmony between different communities, it is also considered necessary to enlarge the scope of the definition of "unlawful association" in the Unlawful Activities (Prevention) Act, 1967.
 - 3. The Bill seeks to achieve the above objects.

NEW DELHI; The 27th May, 1972. R. N. MIRDHA.

S. L. SHAKDHER, Secretary.